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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/304,379	05/04/1999	MICHAEL JOSEPH GARDNER	1152	9580

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EXAMINER

TRAN, PHUC H

ART UNIT PAPER NUMBER

2666

DATE MAILED: 12/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/304,379	GARDNER ET AL.
Examiner	Art Unit	
PHUC H TRAN	2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 10 October 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 81-100 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 81-100 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

DETAILED ACTION

*Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 81-100 are rejected under 35 U.S.C. 102(e) as being anticipated by Kalmanek, Jr. et al. (U.S. Patent No. 6324279 B1).

- With respect to claims 81, 90-91 & 100, Kalmanek, Jr. teaches a communication system (e.g. Fig. 1) comprising: a signaling processor configured (e.g. Fig. 1 shows controllers 110, databases 140) to receive and process signaling for a call to select a connection, a bandwidth rate, an encoding scheme, and a billing rate (e.g. steps 220, 230 in Fig. 2), to transfer a first message indicating the connection, the bandwidth rate, and the encoding scheme (col. 10, lines 6-7), and transfer a second message indicating the billing rate to an accounting system (e.g. col. 10, lines 7-9); and an interworking unit configured to receive the first message and user communications for the call, and in response, to apply the encoding scheme to the user

communications and transfer the user communications over the connection at the bandwidth rate (e.g. step 260 in Fig. 2).

- With respect to claims 82 & 92, Kalmanek, Jr. also discloses wherein the signaling comprises a signaling system seven message (col. 7, line 61).
- With respect to claims 83-84 & 93-94, Kalmanek, Jr. further teaches wherein the signaling processor is configured to select the bandwidth rate based on whether the call is a voice call or a data call or a caller number (col. 9, lines 11-21).
- With respect to claims 85 & 95, Kalmanek, Jr. discloses wherein the signaling processor is configured to select the encoding scheme based on a caller number (e.g. col. 23, lines 28-32).
- With respect to claims 86-87 & 96-97, Kalmanek, Jr. teaches wherein the encoding scheme comprises compression and encryption (e.g. TIUs 170 and 171 coding the information is compressing and encryption).
- With respect to claims 88 & 98, Kalmanek, Jr. also teaches wherein the signaling processor is configured to select the billing rate based on the bandwidth rate or the encoding scheme (col. 3, lines 61-64).

#### *Response to Arguments*

3. Applicant's arguments with respect to claims 81-100 have been considered but are moot in view of the new ground(s) of rejection.

#### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Barnhouse et al. (U.S. Patent No. 6418461 B1) discloses intelligent call switching node in an intelligent distributed network architecture.

- Robrock, II (U.S. Patent No. 5680390 B1) discloses broadband telecommunications network and method of having operations systems support.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H TRAN whose telephone number is (703) 308-7471. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on (703) 308-5463. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 872-9314.

Phuc Tran  
Assistant Examiner  
Art Unit 2664

P.t  
December 27, 2002



DANG TON  
PRIMARY EXAMINER